

# ACT No. 2007- 397

1 SB337  
2 89612-4  
3 By Senators Smith, Mitchem, Benefield, Holley, Erwin, Glover,  
4 Dixon, French, Brooks, Waggoner, Penn, Bedford, Butler,  
5 Preuitt, Bishop, Orr, Coleman, Griffith, and Little (Z)  
6 RFD: Fiscal Responsibility and Accountability  
7 First Read: 29-MAR-07



SB337

ENROLLED, An Act,

Relating to the linked deposit program; to add a new article in Chapter 14 of Title 41, Code of Alabama 1975, entitled the Linked Deposit Program of 2007, to provide for definitions; to provide for investment limits; to require annual status reports be posted on the Treasury website; to provide terms of linked deposits and loan rates; and to shield the state and Treasurer from liability; to repeal Chapter 21, Title 5, Code of Alabama 1975, in its entirety; and to provide a prospective effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Article 3 of Chapter 14 of Title 41 is added to the Code of Alabama 1975, to read as follows:

Article 3. Linked Deposit Program of 2007.

§41-14-50.

This article shall be known as the Linked Deposit Program of 2007. The purpose of this article is to enhance the George Wallace, Jr. Plan for Linked Deposits and further stimulate growth and development in agricultural and small business operations, and to provide disaster relief funds to citizens, by authorizing the State Treasurer to invest a portion of the portfolio of the state with participating

1 eligible lending institutions in a below market rate deposit  
2 which links the deposit to a reduced rate loan to eligible  
3 borrowers.

4 §41-14-51.

5 When used in this article, the following words and  
6 phrases have the following meanings:

7 (1) AGRICULTURE and AGRICULTURAL. Those activities,  
8 land, buildings, and machinery relating to any of the  
9 following:

10 a. The raising, harvesting, rotation, selling, or  
11 marketing of crops or products of the soil planted, served, or  
12 saved including cereals, vegetables, fruits, fibers, sugars,  
13 resins and pitches, grasses, grains, seeds, nuts, bulbs, feed,  
14 forage, wood and wood by-products, nursery stock, including  
15 trees and shrubs or other plants grown or kept for  
16 propagation, distribution or sale, vegetable oils, flowers,  
17 silage, pasturage, and other products and produce thereof.

18 b. The feeding, breeding, management, raising,  
19 marketing, sale or production of livestock of all types,  
20 poultry, insects, fish and other aquatic animals for meat,  
21 leather, eggs, fur, milk, bone, liquids, and other products  
22 and produce thereof.

23 c. Recreational or educational activities directly  
24 involving or relating to the production of farm products of  
25 the types described in paragraphs a. and b., fishing or the

1 taking, capture, or capture and release of wildlife, including  
 2 wildlife animal feeding, husbandry, and conservation  
 3 activities, as well as fish and game management, culling,  
 4 hunting, and related wildlife environmental preservation  
 5 activities.

6 (2) AGRICULTURAL BORROWER. Any individual,  
 7 partnership, cooperative, corporation, or other entity engaged  
 8 in agriculture or agricultural activities or both, and which  
 9 meets all of the following criteria:

10 a. Derives at least 60 percent of gross income from  
 11 agriculture or agricultural activities.

12 b. Is an Alabama resident.

13 c. Is headquartered and operating in Alabama.

14 d. Does not currently owe any defaulted taxes to the  
 15 State of Alabama or any political subdivision.

16 (3) CONSTANT MATURITY TREASURY RATE ("CMT"). Yields  
 17 interpolated by the United States Treasury from the daily  
 18 yield curve. This curve, which relates the yield on a security  
 19 to its time to maturity is based on the closing market bid  
 20 yields on actively traded U.S. Treasury securities in the  
 21 over-the-counter market. These market yields are calculated  
 22 from composites of quotations obtained by the Federal Reserve  
 23 Bank of New York.

1           (4) ELIGIBLE BORROWER. An agricultural, emergency,  
2 or small business borrower that meets the definition and  
3 criteria to participate in the program.

4           (5) ELIGIBLE LENDING INSTITUTION. Any bank or  
5 financial institution designated as a state depository, as  
6 provided under Section 41-14-3, and amendments thereto, that  
7 agrees to participate in the program and completes a linked  
8 deposit participation agreement.

9           (6) EMERGENCY BORROWER. Any individual, business,  
10 organization, or local government which has suffered loss, and  
11 which is located in areas in which property loss has occurred  
12 due to fire, flood, tornado, hurricane, or other act of God,  
13 or other natural or man-made disaster.

14           (7) LINKED DEPOSIT. Deposit of state funds made by  
15 the Treasurer in support of loans made by eligible lending  
16 institutions to eligible borrowers.

17           (8) LINKED DEPOSIT LOAN. Reduced rate loan made to  
18 an eligible borrower by an eligible lending institution that  
19 received a below market rate linked deposit for the same term.

20           (9) LINKED DEPOSIT PARTICIPATION AGREEMENT. The  
21 written agreement between the Treasurer and the eligible  
22 lending institution that specifies duties and responsibilities  
23 of each party consistent with this article and the program.

24           (10) PROGRAM. The linked deposit program, created in  
25 Section 41-14-52 and administered by the Treasurer whereby an

1 investment of state funds is placed with an eligible lending  
2 institution which in turn funds a loan in the full amount of  
3 the deposit to an eligible borrower.

4 (11) SMALL BUSINESS BORROWER. Any individual,  
5 proprietor, corporation, partnership, or other entity which  
6 meets all of the following criteria:

7 a. Is headquartered in Alabama.

8 b. Maintains operations and transacts business in  
9 Alabama.

10 c. Employs fewer than 150 full-time and part-time  
11 employees.

12 d. Is organized for profit.

13 e. Does not currently owe any defaulted taxes to the  
14 State of Alabama or any political subdivision.

15 (12) TREASURER. The Treasurer of the State of  
16 Alabama, or the designee of the Treasurer.

17 §41-14-52.

18 (a) The Linked Deposit Program of 2007 is created  
19 and the Treasurer shall administer the program.

20 (b) The Treasurer shall establish procedures,  
21 guidelines, forms, and other requirements to carry out this  
22 article. The Treasurer may disseminate program information to  
23 interested parties.

24 (c) The maximum amount that the Treasurer may invest  
25 in the program shall not exceed 10 percent of all monies

1 available to the Treasurer for investment as calculated by the  
2 average of the quarter-end amount for the previous four  
3 quarters. The amount invested in the program is at the total  
4 discretion of the Treasurer.

5 (d) The Treasurer shall provide an annual report  
6 outlining the status of the program and publish the report on  
7 the Treasury website for the benefit of the Governor,  
8 Legislature, and general public.

9 §41-14-53.

10 (a) An eligible lending institution shall accept and  
11 review applications for linked deposit loans from eligible  
12 borrowers. The lending institution shall apply all usual  
13 lending standards to determine the credit worthiness of  
14 eligible borrowers.

15 (b) The eligible lending institution shall forward  
16 to the Treasurer a linked deposit package, in the form and  
17 manner prescribed by the Treasurer.

18 §41-14-54.

19 (a) Only one linked deposit shall be made and be  
20 outstanding at any one time to any one eligible borrower.

21 (b) The linked deposit amount shall not exceed seven  
22 hundred fifty thousand dollars (\$750,000) per eligible  
23 borrower.

24 (c) The initial linked deposit term shall be two  
25 years.

1           (d) The linked deposit may be renewed for three  
2 additional two-year terms at the option of the Treasurer for a  
3 total duration of eight years.

4           (e) The linked deposit may not be made in support of  
5 a loan for the purpose of construction, leasing, rental, real  
6 estate investment, other than for owner-occupied business  
7 premises of the borrower, or speculation.

8           (f) The linked deposit shall be returned to the  
9 Treasurer at the earliest of (1) repayment of the linked  
10 deposit loan; or (2) expiration of the linked deposit.

11           (g) All linked deposit funds and interest shall be  
12 electronically disbursed and received through the State  
13 Treasury.

14           (h) Linked deposit interest shall be paid to the  
15 Treasurer monthly.

16           §41-14-55.

17           (a) The linked deposit fixed rate paid by the  
18 eligible lending institution shall be two percent below the  
19 Two-Year Constant Maturity Treasury rate.

20           (b) The minimum linked deposit rate shall be one  
21 percent.

22           (c) The linked deposit loan rate to the eligible  
23 borrower shall be set by the eligible lending institution at a  
24 fixed rate not more than four percent greater than the



1 interest rate on the linked deposit as provided in subsection  
2 (a).

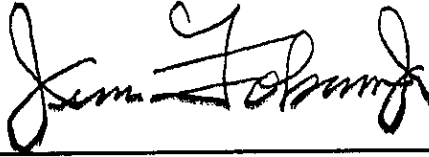
3 §41-14-56.

4 (a) Neither the state nor the Treasurer shall be  
5 liable to any eligible lending institution in any manner for  
6 payment of the principal or interest on the linked deposit  
7 loan to an eligible borrower.

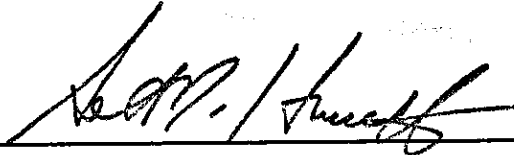
8 (b) Any delay in payments or any default on the part  
9 of the eligible borrower does not in any manner affect the  
10 linked deposit participation agreement between the eligible  
11 lending institution and the Treasurer.

12 Section 2. Chapter 21, commencing with Section  
13 5-21-1 of Title 5, Code of Alabama 1975, is repealed.

14 Section 3. This act shall become effective on  
15 January 1, 2008, following its passage and approval by the  
16 Governor, or its otherwise becoming law.



President and Presiding Officer of the Senate



Speaker of the House of Representatives

SB337

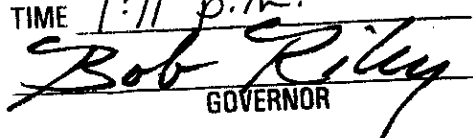
Senate 29-MAY-07

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee  
Secretary

House of Representatives  
Passed: 07-JUN-07

By: Senator Smith

APPROVED June 13, 2007  
TIME 1:11 p.m.  
  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2007-397  
Bill Num....: S-337